

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 ***

5
6 21ST CENTURY COMMUNITIES, INC.,

7 Plaintiff,

2:09-cv-02458-LDG-VCF

8 vs.

ORDER

9 MUZLINK, LLC,

10 Defendant.

11 Before the Court is Defendant's Motion to Withdraw as Attorneys of Record for Defendant
12 Muzlink, LLC. (#53).

13 **Relevant Background:**

14 This case was removed on December 31, 2009. (#1). On January 6, 2010, Defendant filed a
15 Motion to Dismiss. (#4). The Court entered an Order denying Defendant's Motion to Dismiss for Lack
16 of Jurisdiction and Request to Transfer on July 12, 2010. (#12). Defendant filed its Answer on July
17 26, 2010. (#13). On April 17, 2013, the Court scheduled a settlement conference for June 19, 2013.
18 Christopher W. Mixson, Esq., attorney for Defendant filed a Motion to Withdraw as Attorney of Record
19 on May 30, 2013. (#53). Defendant has failed to render payment for legal services for approximately
20 six months. *Id.* Mail address to Defendant has been returned and marked as undeliverable. Mr. Mixson
21 believes that all assets of Defendant "were sold by the bankruptcy trustee to a new entity created for that
22 purpose that is owned and controlled by Barry Cohen, who is also owner of Plaintiff herein, 21st
23 Century Communities." *Id.* Mr. Mixson states that he has made diligent efforts to contact the
24 Defendant's present management personnel but has been unsuccessful. *Id.* On June 3, 2013, Plaintiff
25 filed a renewed Motion for Leave to Amend Complaint. (#54). On June 4, 2013, Defendant filed a

1 Motion for Excusal from Settlement Conference. (#55). On June 6, 2013, the Court held a telephonic
2 hearing on Defendant's Request for Excusal from Settlement Conference on Behalf of Muzlink, LLC.
3 (#55). (#57). No trial date has been entered for this matter.

4 **Discussion:**

5 Local Rule IA 10-6 provides that "no withdrawal . . . shall be approved if delay of discovery, the
6 trial or any hearing in the case would result." Plaintiff has not filed an opposition to the Motion to
7 Withdraw As Counsel. Local Rule 7-2(d) states that "[t]he failure of an opposing party to file points and
8 authorities in response to any motion shall constitute a consent to the granting of the motion."

9 There are no pending hearings scheduled and trial has not been set in this matter. Mr. Mixson
10 has made diligent efforts to contact his client. The Court finds that Mr. Mixson has given sufficient
11 reason to withdraw as counsel of record.

12 Muzlink, LLC is a corporation. A corporation cannot appear except through counsel. *U.S. v.*
13 *High Country Broadcasting Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993); *Rowland v. California Men's*
14 *Colony*, 506 U.S. 194, 201-02 (1993).

15 Having reviewed and considered the matter, and for good cause shown,

16 IT IS HEREBY ORDERED that the Motion to Withdraw As Counsel (#53) is GRANTED.

17 IT IS FURTHER ORDERED that Defendant Muzlink, LLC has until July 17, 2013 in which to
18 retain new counsel who must file a notice of appearance in accordance with the Local Rules of Practice.
19 Failure to comply with this order may result in a recommendation to the District Judge for sanctions,
20 including case-dispositive sanctions.
21

22 IT IS FURTHER ORDERED that the Clerk of Court serves a copy of this Order on Defendant
23 Muzlink, LLC at:
24
25

1 Muzlink, LLC
2 15423 Sutton St.
3 Sherman Oaks, California 91403-3809

4 DATED this 17th day of June, 2013.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE